

Serial No. 10/088,805

### **REMARKS**

#### **I. THE NEWLY ADDED CLAIMS**

Newly added claims 30-52 are directed toward a solid dispersion comprising components (a) and (b). A solid dispersion as claimed in claims 30-55 1 is disclosed as an intermediate material for preparing the particles of the invention. Support for these claims can be found in the specification at, e.g., page 37, lines 34-37; page 39, lines 9 – 17; and page 44, lines 1-4.

#### **II. THE REJECTION UNDER 35 U.S.C. § 112**

The Office Action rejects claims 2-4, 7, 12 and 13 under 35 U.S.C. § 112, asserting that these claims improperly depend on previously canceled claims 25 and 26. In response, the amendment to the claims obviates any basis for the rejection under 35 U.S.C. § 112.

Reconsideration and withdrawal of the rejection of claims 2-4, 7, 12 and 13 under 35 U.S.C. § 112 are respectfully requested.

#### **III. THE DOUBLE PATENTING REJECTION**

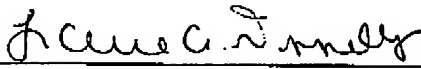
The Office Action rejects claims 1-10, 12, 13 and 28 under the judicially created doctrine of obviousness type double patenting over U.S. Patent No. 6,197,779 in view of EP0872233. In response, Applicants submit a terminal disclaimer to disclaim the terminal part of the statutory term of any claim in any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term of U.S. Patent No. 6,197,779.

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**IV. CONCLUSION**

Early consideration and prompt allowance of the pending claims are respectfully requested. Should the Office require anything further, it is invited contact Applicants' representative at the telephone number listed below.

Respectfully submitted,

By:   
Laura A. Donnelly  
Reg. No. 38,435

Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003  
(732) 524-1729  
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Attachment:  
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